

# Town of Frederick Board of Trustees



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AM 2010-117

## To Consider a Request to Waive the Prohibition on Barbed Wire for Frederick West RV Storage

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**Agenda Date:** November 9, 2010

**Attachments:**

- a. Frederick West RV Storage request for waiver dated October 13, 2010
- b. Frederick West RV Storage Letter of Intent dated October 13, 2010
- c. Frederick West RV Storage Compromise dated October 13, 2010
- d. Frederick West RV Storage Responses to Review Criteria
- e. Vicinity Map
- f. Resolution Denying Waiver Request
- g. Resolution Approving Waiver Request with Conditions

**Fiscal Note:** None noted or provided Fiscal note

  
Administrative Services Director

**Submitted by:** Jennifer Simmons  
Planning Director

**Approved for Presentation:**   
Town Administrator

**AV Use Anticipated** Projector x Laptop     

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**Certification of Board Approval:**

\_\_\_\_\_  
Town Clerk

\_\_\_\_\_  
Date

### **Summary Statement:**

The owners of Frederick West RV Storage have requested a waiver from the Land Use Code's prohibition on barbed wire.

**Detail of Issue/Request:**

**Applicant / Owner:** Todd and Kristen Stanton  
Frederick West RV Storage

**Location and Zoning:** The project is located at 7245 Johnson Drive, Lot 4, Block 4 Frederick West Business Center Filing 3. The property is zoned Industrial with a PUD Overlay, however, there is no development plan in place.

**Surrounding Zoning / Land Uses:**

North	Industrial with a PUD Overlay/Education
South	Industrial with a PUD Overlay/Industrial
East	Industrial with a PUD Overlay /Industrial
West	Industrial with a PUD Overlay / Vacant

**Request:** The property owners of Frederick West RV Storage have requested a waiver from the Land Use Code prohibition from using barbed wire. In January 2010, there was a break in that caused damage to multiple vehicles stored on the property. As a result, the owners placed barbed wire along the top of the existing 6' cedar fence. A letter from the Police Department was sent informing the property owners of the Code violation and as a result, the waiver application was submitted.

Section 2.16 of the Land Use provides regulations regarding fences and walls. The General Provisions found in 2.16.2.d identifies the following prohibited materials:

- (1) Contemporary security fencing such as concertina or razor wire, barbed wire or electronically charged fences are prohibited unless specifically allowed by the Board of Trustees. Electric barrier fencing installed and used with a transmitter collar worn by a dog(s) for the purpose of maintaining the dog(s) within the owner or keeper's premises shall be permitted.
- (2) Chain link fencing with or without slats shall not be used as a fencing material except as identified in Section 2.16.2.c(7).

**Review Criteria:** Article 4 of the Land Use Code identifies the purpose and review criteria for a Waiver Application. They are as follows:

- a. Purpose. The Board of Trustees authorizes waivers from the Land Use Code in cases where, due to exceptional conditions peculiar to the site, practical difficulties or an unnecessary hardship is placed on the landowner. Such waiver shall not be granted if it would be detrimental to the public good, create a conflict with the Comprehensive Plan, or impair the intent and purpose of this Code.
- b. Waiver application; waiver requests in conjunction with other applications. In addition to the requirements of Appendix A, the Applicant shall submit the following to the Planning Department in conjunction with another application:
  - (1) Explanation letter, identifying the waiver being requested and explaining what exceptional condition, practical difficulty or unnecessary hardship exists to require the waiver. The letter shall also address how the waiver, if granted, will not be detrimental to the public good, create a conflict with the Comprehensive Plan or impair the intent and purpose of this Code.
- c. Waiver criteria for approval. The condition of any waiver authorized shall be stated in writing in the minutes of the Board of Trustees with the justifications set forth. Waivers may be granted only if they meet the following criteria:

- (1) The waiver, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor diminish the value, use or enjoyment of adjacent property.
- (2) The waiver, if granted, is the minimum variance that will afford relief and is the least modification possible of the subdivision ordinance provisions which are in question.
- (3) Such practical difficulties or unnecessary hardship has not been created by the applicant.

The applicant's response to the review criteria can be found in the attached document. The responses have been considered by staff. The essential character of the neighborhood will not likely be altered. The waiver will afford relief to the applicant, though outward facing barbed wire may have an impact on the site west of the storage site. Barbed wire internal to the fence may alleviate that impact. The applicant installed the barbed wire without knowing that it violated the Land Use Code. Additionally, the hardship of crime occurring on their property is not self-induced.

**Background information on barbed wire:** In 2006, there were two waiver applications to allow barbed wire on top of new six foot tall chain link fences. In both these instances, the Board of Trustees granted a waiver to allow an eight foot tall chain link fence to be built instead of a six foot fence with barbed wire on top. When the Land Use Code was revised, the issue of barbed wire and fence height was revisited. The Trustees directed staff to allow an eight foot tall chain link fence, but did not wish to allow barbed wire to be permitted. This is the first waiver application related to barbed wire since that time.

**Legal/Political Considerations:**

Legal staff has reviewed the application materials.

**Alternatives/Options:**

The Board of Trustees may choose whether or not to approve the waiver.

**Financial Considerations:**

Not applicable

**Staff Recommendation:**

Staff recommends approving the waiver request with the condition that the barbed wire be turned so that it is inside the entire fence.